

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

Before Sh. N. S. Saini, Accountant Member

ITA No. 1661/Del/2018 : Asstt. Year : 2013-14

Pawanjit Kaur Bhatia, C-9, Westend Colony, New Delhi-110021	Vs	ACIT, Circle-45(1), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AACPK6902B		

**Assessee by : Sh. V. Raja Kumar, Adv.
Revenue by : Sh. S. L. Anuragi, Sr. DR**

Date of Hearing: 07.02.2019	Date of Pronouncement: 07.02.2019
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ORDER

This is an appeal filed by the assessee against the order of CIT(A)-15, Delhi dated 08.06.2017.

2. The assessee has raised following grounds of appeal:

"On the facts and in the circumstances of the case and in law, the CIT(A) erred in:

1. treating the paper appeal filed by the assessee as non-est and dismissing the same in limine;

2. not passing a speaking order on the points in issue ex-parte and in contravention of natural justice;

3. confirming the following actions of the Assessing Officer -

a) determining taxable income vide order u/s 143(3) of the Act at an income of Rs.46,28,430/- against the returned loss in a sum of Rs. 26,86,032/-;

b) disallowing Rs.70,05,863/- being the amount of interest paid on loans obtained for the purpose of business treating the same as not allowable while

computing loss under the head 'Business & Profession'.

All the above actions are arbitrary, grossly misconceived, palpably erroneous and wholly unjust and so much be quashed with directions for relief."

3. The CIT(A) dismissed the appeal of the assessee on the ground that the assessee has filed the appeal manually on 01.04.2016 and electronically on 29.07.2016. He observed that in view of the above, the appeal filed by the assessee manually on 01.04.2016 is treated as not maintainable and dismissed in *limine*. Being aggrieved, the assessee has filed this appeal before the Tribunal.

4. The AR of the assessee filed copy of the order of Delhi 'E' Bench of the Tribunal in the case of New Delhi Young Men's Christian Association Vs ITO(E) in ITA No. 1029/Del/2017 for the assessment year 2013-14, order dated 21.08.2017 and submitted that the Tribunal in the similar facts of the case restore the matter back to the file of the CIT(A) for adjudicating the appeal of the assessee afresh on merits after providing opportunity of hearing to the assessee. He submitted that following the same, the matter should be restore back to the file of the CIT(A).

5. The DR could not controvert the submissions of the AR of the assessee.

6. I find that the Tribunal in the case of New Delhi Young Men's Christian Association Vs ITO(E) (*supra*) in para 6 of this order observed as under:

"6. Appeal cannot be dismissed in limine merely because of the fact that the same has not been filed through 'e-filing'

particularly in the face of the undisputed fact that subsequently assessee had filed appeal through 'e-filing' under Rules and as such, impugned order is not sustainable in the eyes of law. So, in these circumstances, we deem it necessary to restore the matter to CIT (A) to decide afresh on merits after providing an opportunity of being heard to the assessee. Consequently, the appeal filed by the assessee is allowed for statistical purposes."

7. Facts being identical, respectfully following the precedent, I set aside the order of the CIT(A) and remand the matter back to his file with the same direction as given by the Tribunal in the case of New Delhi Young Men's Christian Association Vs ITO(E) (supra).

8. In the result, the appeal of the assessee is allowed for statistical purposes.

(Order Pronounced in the Open Court on 07/02/2019).

Sd/-
(N. S. Saini)
Accountant Member

Dated: 07/02/2019

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR